

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
Civil Action No. 7:10-cv-00153-FL

WESTERN SURETY COMPANY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
MITEX ROOFING, INC.,	)	
JOHN VINCENT BROSNAHAN,	)	
KIMBERLY BROSNAHAN, and	)	
RUDOLPH RAY MARTINEZ,	)	
	)	
Defendants.	)	
	)	

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DEFAULT JUDGMENT AGAINST DEFENDANT  
MITEX ROOFING, INC.

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THIS CAUSE coming on to be heard before the undersigned, upon motion of Plaintiff Western Surety Company (hereinafter "Plaintiff"), pursuant to Rule 55 of the Federal Rules of Civil Procedure, for judgment by default against Defendant Mitex Roofing, Inc. (hereinafter "Defendant"), and it appearing to the Court that:

1. Plaintiff filed a Complaint with this Court on August 5, 2010.
2. A Civil Summons was issued on August 5, 2010, directed to Defendant Mitex Roofing, Inc., and was served, along with the Complaint, to the North Carolina Secretary of State, c/o Service of Process Agent, at Post Office Box 29622, Raleigh, North Carolina 27626 on September 7, 2010, pursuant to N.C.G.S § 55D-33, as authorized pursuant to Rule 4(h)(1)(B) of the Federal Rules of Civil Procedure; service is evidenced by the Affidavit of Service filed on October 8, 2010.

3. Pursuant to Rule 12(a)(1)(A)(i) of the Federal Rules of Civil Procedure, Defendant Mitex Roofing, Inc. was required to serve its answer or otherwise respond to the claims set forth in Plaintiff's Complaint within 21 days after service of the Complaint, through and including September 28, 2010.

4. September 28, 2010 has passed and Defendant Mitex Roofing, Inc. has failed to file or serve an answer or otherwise respond to the claims against it.

5. Defendant Mitex Roofing, Inc.'s default was entered by the Clerk of the United States District Court, Eastern District of North Carolina, Southern Division, and no proceedings have been taken by Defendant since default was entered.

6. Defendant is liable to Plaintiff for damages in the amount of \$454,297.11 by reason of the facts shown in the Complaint and the Affidavit of Bryan M. Seifert, which is incorporated herein by reference.

7. Defendant is liable to Plaintiff in damages for the sum certain of \$454,297.11, plus interest from the date of breach, by reason of the facts shown in the verified Complaint and in the Affidavit of Bryan M. Seifert.


8. Upon information and belief, Defendant is not under any legal disabilities, nor is Defendant an infant, incompetent person or in the military service of the United States.

BASED ON THE FOREGOING FINDINGS OF FACT, THE COURT CONCLUDES AS A MATTER OF LAW that Defendant Mitex Roofing, Inc. is subject to a default judgment on Plaintiff's claims.

BASED UPON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS THEREFORE ORDERED, ADJUDGED AND DECREED, that a default judgment is hereby entered against Defendant Mitex Roofing, Inc. on Plaintiff's claims in the amount of

\$454,297.11, plus interest from the date of breach at the legal rate until paid in full, pursuant to the Indemnity Agreement.

This the 17th day of June, 2011.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style. It is positioned above a horizontal line that serves as a separator between the signature and the printed name.

LOUISE W. FLANAGAN  
Chief United States District Judge

HEC:  
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